

## **II. RESPONSE**

### **A. State of the Claims**

Claims 1-35 were pending at the time of the Restriction Requirement. Claims 22-35 have been withdrawn in view of the Response to Restriction Requirement below. Therefore, claims 1-35 are presently pending, with claims 1-21 under current consideration.

### **B. Response to Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice to Comply")**

In response to the Notice to Comply that accompanied the Restriction Requirement, Applicants have amended the specification herein to include the appropriate sequence identifiers on page 30 and to enter the substitute Sequence Listing. A substitute Sequence Listing for entry into the specification is attached hereto, and a substitute computer readable form (CRF) of the Sequence Listing and a statement that the content of the paper and CRF copies of the Sequence Listing are the same and include no new matter are submitted concurrently herewith.

### **C. Response to Restriction Requirement**

In response to the Restriction Requirement, Applicants elect, without traverse, the Group I invention, as exemplified by current claims 1-21, drawn to a nucleic acid segment comprising a synthetic promoter/enhancer or the complement thereof.

### **D. Species Election**

In regard to the species election requirement entered by the Examiner for the Group I invention, Applicants elect, without traverse, the following species for prosecution in this application:

With regard to election of a specific binding element or combination thereof, Applicants elect the species having the promoter sequence of SP72 (SEQ ID NO:35). Current claims 1 to 11 and 15 to 21 are generic to this species, and current claims 12 to 14 read on this species. Applicants would point out that both SEQ ID NO:36 and SEQ ID NO:37 comprise the sequence of SEQ ID NO:35.

With regard to the species of vector, Applicants elect the genetic immunization vector. Current claims 1 to 21 are generic to this species.

Applicants reserve the right to have any and all dependent claims directed to the non-elected species examined in the present case if any of the above-mentioned generic claims or any other generic claims encompassing such non-elected species within their scope are found to be allowable.

Additionally, pursuant to the statements of the Restriction Requirement, Applicants reserve their right of rejoinder of the withdrawn Group II claims in the event that the Group I claims are allowed.

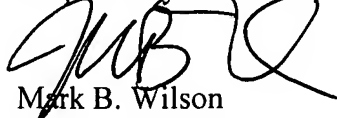
#### **E. Conclusion**

Applicants believe that this paper is a full response to the Restriction Requirement dated January 30, 2006, and respectfully request favorable consideration of the instant claims in view of the amendments and remarks made above.

Should the Examiner have any questions, comments, or suggestions relating to this case, the Examiner is invited to contact the undersigned Applicants' representative at (512) 536-3035.

Please date stamp and return the enclosed postcard evidencing receipt of this paper.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'MBW', is written over the typed name 'Mark B. Wilson'.

Mark B. Wilson

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